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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/693,641	10/24/2003	Alfred Langerak	05032-00042	8893
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BANNER & WITCOFF, LTD. 28 STATE STREET 28th FLOOR BOSTON, MA 02109-9601			EXAMINER GRAY, LINDA LAMEY	
			ART UNIT	PAPER NUMBER
			1734	

DATE MAILED: 05/13/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary	Application No. 10/693,641	Applicant(s) LANGERAK	
	Examiner Linda L Gray	Art Unit 1734	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 3-4-04, 10-24-03, and 12-8-03.
- 2a) ☐ This action is FINAL. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-19 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-19 is/are rejected.
- 7) ☒ Claim(s) 14, 16 and 19 is/are objected to. § 4
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 10-24-03 is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
 Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
 Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. §§ 119 and 120

- 12) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
 a) ☒ All b) ☐ Some * c) ☐ None of:
 1. ☒ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
 * See the attached detailed Office action for a list of the certified copies not received.
- 13) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application) since a specific reference was included in the first sentence of the specification or in an Application Data Sheet. 37 CFR 1.78.
 a) ☐ The translation of the foreign language provisional application has been received.
- 14) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121 since a specific reference was included in the first sentence of the specification or in an Application Data Sheet. 37 CFR 1.78.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892) 4) ☐ Interview Summary (PTO-413) Paper No(s). _____
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948) 5) ☐ Notice of Informal Patent Application (PTO-152)
- 3) ☒ Information Disclosure Statement(s) (PTO-1449) Paper No(s) *. 6) ☐ Other: _____

Detailed Action

Conclusion

- 1. Claims 4, 14, 16, and 19** are objected to because of the following informalities: **(a) claim 4**, the "," after "such" (L 4) should be deleted; **(b) claim 14**, the "." after "in" (L 4) should be deleted; **(c) claim 16**, the "." after "wherein" (L 3) should be deleted; and **(d) claim 19**, the "." after "wherein" (L 2) should be deleted.

Claim Rejections - 35 USC § 112

- 2.** The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

- 3. Claims 6 and 10 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.**

Claim 6, "in particular by opening the flap" (L 2) renders claim 6 indefinite because it is unclear if opening the flap is part of the claim. Also, see the same "in particular" limitation in **claim 10**.

Claim 14, "and the like" (L 2) renders claim 14 indefinite because the limits of "the like" are not defined in the claim or specification.

Claim Rejections - 35 USC § 102

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless – (b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

5. Claims 1-12 and 14-15 are rejected under 35 U.S.C. 102(b) as being anticipated by Lee (US 6,176,409).

Claim 1, Lee teaches an apparatus for dispensing adhesive tape 400, provided with housing 100 and receiving means 101 for receiving a supply roll of adhesive tape 400 and guiding means 200 for, during use, feeding to and through the dispense opening 104 a leading end of adhesive tape 400 unwound from the supply roll, wherein cutting means 330 are provide for cutting adhesive tape 400 from the supply roll brought outside the dispense opening 104, wherein operating means 310 is provided for moving the cutting means 330 between a first position largely retracted in the housing 100 and a second, cutting position, wherein the cutting means 330 can be brought into contact with the adhesive tape 400 fed into and/or through the dispense opening 104 (c 2, L 35-42; c 3, L 44, to c 4, L 2; c 4, L 39-42; c 5, L 42-51).

Claim 2, the cutting means 330 is biased in the first position via resilient member 321.

Claim 3, in the first and second positions the cutting means 330 extends virtually completely with the housing 100.

Claim 4, the housing 100 is provided with locking means 300 for at least partly confining the supply roll within the housing 100, wherein blocking means is provided for the cutting means 330 and/or the operating means 310 thereof, which blocking means is designed such that the locking means 300 can only be opened and/or taken away (i.e., moved right) when the cutting means 330 has been brought into the first position. Note the blocking means is shown as the fork-shaped item that pivots on item 107.

Claims 5 and 7, the housing 100 includes a flap, wherein the blocking means can be operated by the flap where the flap includes the outward projections surrounding operating means 310, projecting outward from locking means 300. As shown in Figure 8b, the blocking means prevents the flap from operating before the cutting means has been brought into the first position.

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Claim 6, by operating the blocking means (i.e., by moving the flaps), the operating means 310 for the cutting means 330 is blocked meaning such is blocked into the position shown in Figure 8b until the locking means 300 is released to its original position.

Claim 8, the guiding means 220 includes at least one driven roller with which, during use, adhesive tape 400 can be moved in the direction of and through the dispense opening 104.

Claim 9, a driving mechanism 220 is provided for manually driving the at least one driven roller

Claims 10-11 are rejected in that the limitations of claims 10-11 are written as intended use limitations which are not written to provide structural limitations to the claimed apparatus.

Claim 12, the housing 100 includes a handle (bottom right) and body (other portions) wherein the receiving means 110 for the supply roll is provided in the handle and the operating means 310 substantially in the body.

Claim 14, the guiding means 220 is provided in the body. Note that the other limitation of claim 14 is written as an intended use limitation which is not written to provide a structural limitation to the claimed apparatus.

Claim 15, the cutting means 330 includes a knife 340, received in a substantially straight guide 340 which is substantially linearly movable between the first and the second position.

6. Claims 1-12, 14, and 16 are rejected under 35 U.S.C. 102(b) as being anticipated by Urushizaki (US 4,097,328).

Claim 1, Urushizaki teaches an apparatus for dispensing adhesive tape 2, provided with housing and receiving means 1a for receiving a supply roll of adhesive tape 2, a guiding means 11 for, during use, feeding to and through the dispense opening 10 a leading end 2a of adhesive tape 2 unwound from the supply roll, wherein cutting means 15 are provide for cutting adhesive tape 2 from the supply roll brought outside the

dispense opening 10, wherein operating means 7 is provided for moving the cutting means 15 between a first position largely retracted in the housing and a second, cutting position, wherein the cutting means 15 can be brought into contact with the adhesive tape 2 fed into and/or through the dispense opening 10.

Claim 2, the cutting means 15 is biased in the first position via item 7.

Claim 3, in the first and second positions the cutting means 15 extends virtually completely with the housing.

Claim 4, the housing is provided with locking means 17 for at least partly confining the supply roll within the housing, wherein blocking means is provided for the cutting means 15 and/or the operating means 7 thereof, which blocking means is designed such that the locking means 17 can only be opened and/or taken away when the cutting means 15 has been brought into the first position. Note the blocking means is shown as 13.

Claims 5 and 7, the housing includes a flap 12, wherein the blocking means 13 can be operated by the flap 12 where. As shown in the drawings, the blocking means 13 prevents the flap 12 from operating before the cutting means has been brought into the first position.

Claim 6, by operating blocking means 13 (i.e., moving disc 12 from that position in Figure 2 to that of Figure 3), the operating means 7 for the cutting means 15 is blocked meaning such is blocked into the position shown in Figure 3.

Claim 8, the guiding means 9 includes at least one driven roller with which, during use, adhesive tape 2 can be moved in the direction of and through the dispense opening 10.

Claim 9, a driving mechanism 220 is provided for manually driving the at least one driven roller

Claims 10-11 are rejected in that the limitations of claims 10-11 are written as intended use limitations which are not written to provide structural limitations to the claimed apparatus.

Claim 12, the housing includes a handle (top portion) and body 3 wherein the receiving means 1a for the supply roll is provided in the handle and the operating means 7 substantially in the body 3.

Claim 14, the guiding means 9 is provided in the body. Note that the other limitation of claim 14 is written as an intended use limitation which is not written to provide a structural limitation to the claimed apparatus.

Claim 16, the receiving means 1a for the supply roll are fastened to a base plate 1a which is movable relative to the housing, wherein pressure roller 9 is connected to the base plate 1a for pressing on adhesive tape 2 extending along the pressure roller 9, the pressure roller 9 being arranged for pushing the adhesive tape 2 through the dispense opening 10.

Claim Rejections - 35 USC § 103

7. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

8. Claim 13 is rejected under 35 U.S.C. 103(a) as being unpatentable over Lee.

Claim 13, Lee and Urushizaki do not teach the apparatus to be substantially manufactured from metal parts.

However, adhesive tape dispensers of metal parts are convention for such are durable, and for this reason it would have been obvious to a person of ordinary skill in the art at the time the invention was made to have provided for such in Lee and Urushizaki.

9. Claims 17-18 are rejected under 35 U.S.C. 103(a) as being unpatentable over Lee or Urushizaki .

Claim 17, Lee and Urushizaki do not teach that the receiving means 101 (1a) to include first receiving elements and the supply roll includes a core with second receiving elements, wherein the first and second receiving elements are tailored to each other such that the supply roll can only be inserted with the core onto the receiving element in one position.

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However, it is convention to provide a core and a receiving means with mating elements to hold the core tightly in position, and for this reason it would have been obvious to a person of ordinary skill in the art at the time the invention was made to have provided for the same in Lee and Urushizaki.

Claim 18, Lee and Urushizaki teach that the receiving means 101 (1a) include a stud onto which the core of the supply roll can be slipped, wherein the housing includes a cover 110 (5) which can be closed over the supply roll, which cover, in closed position, is located at a relatively small distance from the core.

10. Claim 19 is rejected under 35 U.S.C. 103(a) as being unpatentable over Lee in view of Strachan (US 4,527,722).

Claim 19, Lee does not teach at least two receiving position for supply rolls of tape 400 where tape 400 can be pulled from any roll at will.

However, Strachan teaches a multiple-unit tape dispenser where there are multiple receiving positions for supply rolls of tape wherein the tape can be pulled from any roll at will. The tapes are different and depending upon the use of the tapes, different ones will be pulled.

It would have been obvious to a person of ordinary skill in the art at the time the invention was made to have provided in Lee at least two receiving positions for supply rolls of tape 400 where tape 400 can be pulled from any roll at will because Strachan teaches that such allows one versatility in that different tapes can be provided and then used according to a specific purpose.

Conclusion


11. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Linda Gray whose telephone number is (571) 272-1228. The examiner can normally be reached Monday-Friday from 9:00 am to 5:00 pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Richard Crispino, can be reached at (571) 272-1226. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for

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published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

llg 
May 11, 2004


LINDA GRAY
PRIMARY EXAMINER